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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/021,925	12/13/2001	Bok-Ki Kim	678-770(P9837)	2218
28249	7590	08/02/2006	EXAMINER	
DILWORTH & BARRESE, LLP 333 EARLE OVINGTON BLVD. UNIONDALE, NY 11553			RAMAKRISHNAIAH, MELUR	
			ART UNIT	PAPER NUMBER
			2614	

DATE MAILED: 08/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/021,925	<b>Applicant(s)</b> KIM ET AL.	
	<b>Examiner</b> Melur Ramakrishnaiah	<b>Art Unit</b> 2614	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 May 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 2,4,5,7 and 8 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2, 4, 5, 7-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Masami (JP404260256A) in view of Skorko (US PAT: 6,560,466, filed 9-15-1998) and Yoshiyuki et al. (JP362136951A, hereinafter Yoshiyuki).

Regarding claim 4, Masami discloses a method of generating an alert sound in a telephone having a proximity sensor installed in a receiver for detecting if a human body is adjacent to the receiver within a predetermined distance, the method comprising the following steps: determining if a the human body is adjacent to the receiver when an incoming call is received to the receiver, initially generating alert sound in a normal level, if the human body is not detected adjacent to the receiver, initially generating the alert sound in a low level lower than the normal level, if the human body is detected adjacent to the receiver (fig. 1, abstract).

Masami differs from claim 4 in that he does not specifically teach: adjusting alert sound in a portable telephone depending upon user proximity and adjusting the level of alert sound to a normal level after a certain time period.

However, Skorko discloses auditory feedback control through user detection which teaches generating the alert sound at a lower level than normal level, depending upon user detection in a portable telephone (fig. 1, abstract; col. 4 lines 12-25); and

Art Unit: 2614

Yoshiyuki discloses ringer tone variable telephone set which teaches: adjusting the level of alert sound to a normal level after a certain time period (fig. 1, see abstract).

Thus, it would have been obvious to modify Masami's system to provide for the following: adjusting alert sound in a portable telephone depending upon user proximity as this arrangement would facilitate adjusting the alert sound in a portable telephone depending upon user proximity as taught by Skorko; adjusting the level of alert sound to a normal level after a certain time period as this arrangement would facilitate providing pleasant ringer tone to the user depending upon his location as taught by Yoshiyuki.

Claim 7 is rejected on the same basis as claim 4.

3. Claims 5 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ikuo (JP06-307488) in view of Masami and Yoshiyuki.

Regarding claim 8, Ikuo discloses an apparatus for adjusting the level of an alert sound in a portable telephone having a flip or folder type cover, the apparatus comprising: a cover hatch sensor (reads on open/close detection means 7, Drawing 1) for detecting if the cover is open, an audio processing unit (reads on ringer tone output circuit 4, Drawing 1) for generating and outputting the alert sound via a speaker (reads on 5, Drawing 1), a controller (3, Drawing 1) for determining whether the cover is open, generating the alert sound in normal level through the control of audio processing unit if it is determined cover is not open, generating the alert sound in a low level lower than normal level through the control of audio processing unit if it is determined that cover is open.

Ikuo differs from claim 8 in that he does not specifically teach the following: proximity sensor installed in a receiver for detecting if a human body is adjacent to the receiver within a predetermined distance, determining whether human body is adjacent receiver when an incoming call is received after determining whether the cover of the telephone is open for adjusting the alert sound, and adjusting the level of the alert sound to the normal level after a certain time period.

However, Masami discloses following: proximity sensor (3, fig. 1) installed in a receiver for detecting if a human body is adjacent to the receiver within a predetermined distance, determining whether human body is adjacent receiver when an incoming call is received for adjusting proper ring volume (fig. 1, see abstract); and Yoshiyuki discloses ringer tone variable telephone set which teaches: adjusting the level of alert sound to a normal level after a certain time period (fig. 1, see abstract).

Thus, it would have been obvious to modify Masami's system to provide for the following: determining whether human body is adjacent receiver when an incoming call is received after determining whether the cover of the telephone is open for adjusting the alert sound as this arrangement would provide fail safe method for adjusting the alert sound thereby accomplishing intended purpose in view of the possibility that the cover of the telephone might be inadvertently left open by the user without being actually present at the telephone, and adjusting the level of the alert sound to the normal level after a certain time period as this arrangement would facilitate providing pleasant ringer tone to the user depending upon his location as taught by Yoshiyuki.

Claim 5 is rejected on the same basis as claim 8.

4. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Masami in view of Kim and Skoro and Yoshiyuki.

Regarding claim 2, Masami discloses a method for adjusting an alert sound in a telephone to prevent surprise or damage from the alert sound, comprising the steps of: determining whether a user is proximate to a telephone, generating the alert sound in a first level, generating the alert sound in a low level lower than the first level (fig. 1, see abstract).

Masami differs from claimed invention in that he does not specifically teach the following: a portable telephone environment, determining whether an alert sound adjusting mode is set when an incoming call is received to adjust the alert sound subsequent to determining a user is proximate to the telephone, and adjusting the level of alert sound to the first level after a predetermined time period, thereby allowing a user to recognize the incoming call and to move to a telephone to prevent surprise or damage from the alert sound.

However, Skorko teaches portable telephone in which alert sound is adjusted depending upon user proximity to the telephone (see abstract); Kim discloses ringing volume setting method for receiving telephone calls which teaches: determining whether an alert sound adjusting mode is set when an incoming call is received to adjust the alert sound (see abstract), and Yoshiyuki teaches: adjusting the level of alert sound to the first level after a predetermined time period, thereby allowing a user to recognize the incoming call and to move to a telephone to prevent surprise or damage from the alert sound (see abstract).

Thus, it would have been obvious to modify Masami's system to provide for the following: a portable telephone environment as this arrangement would facilitate adjusting the alert sound depending upon user proximity in a portable telephone thereby enhancing the telephone system of Masami; determining whether an alert sound adjusting mode is set when an incoming call is received to adjust the alert sound subsequent to determining a user is proximate to the telephone as this arrangement would provide fail safe method for adjusting the alert sound thereby accomplishing intended purpose in view of the possibility that the user may be present near the telephone without actually intending to control alert sound of the telephone because he is at a comfortable distance from the telephone and need to hear alert sounds from the telephone, and adjusting the level of alert sound to the first level after a predetermined time period, thereby allowing a user to recognize the incoming call and to move to a telephone to prevent surprise or damage from the alert sound as this arrangement would facilitate providing pleasant ringer tone to the user depending upon his location as taught by Yoshiyuki.

### ***Response to Arguments***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melur Ramakrishnaiah whose telephone number is (571)272-8098. The examiner can normally be reached on 9 Hr schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curt Kuntz can be reached on (571) 272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Art Unit: 2614

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Melur Ramakrishnaiah  
Primary Examiner  
Art Unit 2614